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10/530,001	03/31/2005	Joachim Leibbrand	3827-134	5425
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Hollywood, FL 33020				
EXAMINER				
WEINSTEIN, LEONARD J				
ART UNIT		PAPER NUMBER		
3746				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,001

Applicant(s)

LEIBBRAND ET AL.

Examiner

LEONARD J. WEINSTEIN

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment of January 21, 2009. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendments to claims 1-3, 5, 7, 10, 11-17, 21, and 26-45. The examiner notes that claim 46 has been canceled.

Specification

3. The disclosure is objected to because of the following informalities:
 - a. pg. 9, line 1 – “building frame” should be --- building frame 22 ---
 - b. pg. 11, line 9 - "one mounting rail 52" should be --- one mounting rail 62 ---
 - c. pg. 11, line 20 – “recessed 72” should be --- recess 72 ---
 - d. pg. 13, second to last line – “core pump” should be --- core pump 24 ---
 - e. pg. 13, ¶0030 - the recitation of “[t]he invention aims at providing a mobile concrete pump whereof the building frame can be easily mounted and dismounted,” is ambiguous and it is unclear whether the element to be mounted or dismounted is a core pump 24 or a building frame 22. The sentences that follow this sentence, suggest that it is the core pump that is mounted and dismounted because they disclose subject matter related to bearings 54 and 56. These elements enable the core pump 24 to be secured to and also removed from a building frame 22. It is also noted that the sentence cited only refers to the two elements of a core pump and a building frame, it does not provide a

reference or teaching of a separate element, such as a frame 12, from which a building frame 22 can be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The recitation of "sub-frame" in each of independent claims 1, 14, 28, and 39, presents a term which was not previously disclosed. As best understood by the examiner the "sub-frame" corresponds to the "building frame 22" of the instant disclosure and the claims previous to the instant amendment. The term "building frame" is extensively defined and disclosed in the specification and thereby sets forth an essential element of the invention. It is further noted that the term "sub-frame" suggests an inherent characteristic of being able to be disassembled from another structure. As discussed below the specification does not provide support for the idea that a building frame may be removed from a frame of a truck chassis. As best understood by the

examiner each recitation of "sub-frame" will be considered to be --- building frame --- for the purposes of the office action on the merits that follows.

6. Claims 1-13 and 15-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 1 recites the limitation of "a sub-frame . . . releasably attached to said frame." This limitation is not supported by the specification because the building frame to which the claimed "sub-frame" corresponds, is disclosed as "[t]he building frame includes two longitudinal side members 50, which **are fixed** upon the structure 12, spaced apart sideways from each other to thereby from a free space" (§0022).

The only possible disclosure that could make the building frame removable from the frame 10 is in §0030, however as discussed above the statement in question is ambiguous and appears to refer to a core pump being removable from the building frame and not the building frame being removable from the frame. The examiner also notes that this statement was part of a concluding paragraph which was meant to provide a summary of the basic aspects of the instant invention and not introduce a new feature that had not been previously described in detail in the disclosure.

The examiner also notes that other features of the invention suggest that a building frame 10 must be fixed to a frame 10 because the building frame is used to fasten a stabilizing device 38 and distribution mast 36 to the truck chassis 10. The stabilizing device suggests that a building frame, which it was fasten to, would be fixed

on a frame 12 because otherwise the truck would not act as an anchor for the stabilizing device and thus put the full load of the distribution mast 36, bearing block 44 and drive subassembly 42 all on the building frame. Also the specification only discloses that side members 50 are fixed to the frame 12 and does not provide a detailed disclosure as to how, if at all, the members 50 of the building frame 22 would be fastened and/or detached from the frame 12. It is also noted that the details of the instant invention would suggest that that it may not be advantageous to be able to remove the building frame from the frame because there would be two connection points between the frame 12 and the elements such as the distribution mast the frame 12 must support. One of ordinary skill in the art would recognize that increasing the number of connections between two or more elements would increase the chances that one of those connections may fail and an apparatus will mal-function or be significantly damaged.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Takayuki JP 11245710. Takayuki teaches all the limitations as claimed for a mobile concrete pump (I) including: **[claim 14]** a building frame (20) adapted to be seated on a structure (13) of a truck chassis and comprising two longitudinal side members (20a) mutually spaced apart by a free space (fig. 2) and resting on said chassis structure, for receiving

a supporting device (22), a core pump (I) with material supply container (9) and functional units which form a distribution mast (16), as well as a driving assembly (shown in figure 1) for actuating the functional units, which are arranged with the core pump (I) in the free space zone (fig. 2) located between the two longitudinal side members (20a), wherein the building frame (20) comprises mounting means (26) designed to releasably support carrier frames (22) of different sizes which carrier frames bridge over said side members across the free space (fig. 2) and which carrier frames may be equipped in modular manner with various drive subassemblies.

Allowable Subject Matter

8. Claims 28-38 and 40-45, previously indicated as allowed now stand rejected due to amendment.
9. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action. Specifically any recitation of "sub-frame" should be amended to be --- building frame --- and the limitation directed toward side members "releasably attached to said frame" should be amended to recite side member which are --- fixed to said frame --- per the disclosure in ¶0022.
10. Claim 28 and 39 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action. Specifically any recitation of "sub-frame" should be amended to be --- building frame ---.

11. Claims 2-13, 15-27, 29-38, 40-45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 1-13 and 15-27 have been considered but are moot in view of the new ground(s) of rejection.

13. The examiner notes that no arguments were submitted with respect to the rejection of claim 14 under 35 U.S.C. §102(b) as being anticipated Takayuki JP 11245710. The arguments that were presented with respect to claim 1 not applicable to claim 14 because the claim does not include a limitation wherein a "sub-frame" (--- building frame ---) is removable or a feature direct toward a floating bearing.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3746

/Leonard J Weinstein/
Examiner, Art Unit 3746